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AMENDED IN ASSEMBLY MAY 26, 2006  
AMENDED IN ASSEMBLY MAY 3, 2006  
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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2163**

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**Introduced by Assembly Member Nava**

February 21, 2006

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An act to amend Sections 37252, 37252.8, and 51745 of, to add Sections 46145.3, 46145.5, 48200.3, and 51747.2 to, and to repeal and add Section 46145 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 2163, as amended, Nava. Pupils: supplemental instruction.

(1) Existing law authorizes the governing board of a school district and a charter school maintaining any of grades 2 to 6, inclusive, to offer programs of direct, systematic, and intensive supplemental instruction to a pupil enrolled in grades 2 to 6, inclusive, who has been identified as having a deficiency in mathematics, reading, or written expression based on the results of a test administered under the Standardized Testing and Reporting (STAR) Program or who has been identified as being at risk of retention.

Existing law authorizes a school district or charter school that offers the specified supplemental instruction to receive reimbursement in an amount up to 5% of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current

fiscal year, determined as specified, with the balance of any appropriation made for these purposes to be allocated for reimbursement for supplemental instruction where pupil attendance in the supplemental instruction is in excess of 5%, but not in excess of 7%, of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, determined as specified.

This bill, instead, would authorize a school district or charter school that offers the specified supplemental instruction to receive reimbursement in an amount up to 10% of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, determined as specified, with the balance of any appropriation made for these purposes to be allocated for reimbursement for supplemental instruction where pupil attendance in the supplemental instruction is in excess of 10%, but not in excess of 15%, of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, determined as specified.

(2) Existing law defines the minimum schoolday in a high school, with specified exceptions, as 240 minutes.

This bill would prohibit a school district *or county office of education* from allowing a pupil who has not passed the California High School Exit Examination to attend a minimum schoolday, as defined, except as specified.

The bill would prohibit a school district *or county office of education* from allowing a pupil who has not passed the California High School Exit Examination to enroll in work experience education programs or office or teacher assistant courses.

The bill would authorize a school district *or county office of education* to authorize a pupil in grade 12 who is 18 years of age or older and has not passed the California High School Exit Examination to attend a minimum schoolday, as defined, if the pupil signs a statement indicating that he or she is fully informed of the potential consequences of attending school less than full time.

The bill would authorize a school district *or county office of education* to authorize a pupil in grade 12 who is less than 18 years of age and has not passed the California High School Exit Examination

to attend a minimum schoolday, if the pupil and the pupil's parent or legal guardian both sign a statement indicating that they are fully informed of the potential consequences of attending school less than full time.

The bill would require a school district *or county office of education* to require each high school within its jurisdiction to that enrolls pupils in any of grades 10 or 12 to develop a written individualized learning plan to assist each pupil in grade 10 or 12 who has not passed the high school exit examination. The bill would require a school district *or county office of education* to require each school within its jurisdiction that enrolls pupils in grade 7 to develop a written individualized learning plan to assist each pupil in grade 7 who is deemed at the far below basic level in English language arts or mathematics pursuant to the California Standards Test administered in grade 6. The bill would require that those plans include the requisite coursework and experience the pupil needs in order to pass the high school exit examination, complete all other requirements for graduation from high school, and successfully transition to postsecondary education or employment.

The bill would require a school district *or county office of education* to require each school within its jurisdiction to offer and schedule an individual conference with each pupil, his or her parent or legal guardian, and a school representative, to provide a review of the pupil's status in passing the examination, or the pupil's score on the English language arts or mathematics portion of the California Standards Test administered in grade 8, as applicable, and develop a written individualized learning plan to assist the pupil in reaching his or her educational and career goals.

The bill would require a school district *or county office of education* to allow a pupil who is 18 years of age or older and enrolled in grade 12 to complete that school year in a high school program, as determined by governing board policy. The bill would require a school district *or county office of education* to allow a pupil who has not completed all high school graduation requirements or passed both sections of the California High School Exit Examination on or before the end of the 4th year of high school to enroll in and attend a high school program during the next school year, as determined by governing board policy, if the pupil enrolls in the 5th year of high school before attaining 19 years of age. The bill would require a school district *or county office of education* to provide the pupil with

specified educational options ~~that provide intensive instruction,~~ pursuant to an individualized learning plan for each pupil, for enrollment of pupils beyond the 4th year of high school, if the pupil is making progress under governing board policy towards completion of graduation requirements. The bill would exempt a pupil subject to these provisions from the requirement above that pupils in grade 12 who have not passed the California High School Exit Examination, or who have been determined under governing school board policy to be deficient in the credits required for high school graduation, to be enrolled full-time in at least 6 courses each semester or the equivalent number of courses per quarter.

Because these requirements would impose additional duties on school districts *and county offices of education*, the bill would establish a state-mandated local program.

(3) Existing law prohibits more than 10% of the pupils participating in an opportunity school or program, or a continuation high school, calculated as specified by the State Department of Education, from being eligible for apportionment credit for independent study. A pupil who is pregnant, or a pupil who is a parent and is the primary caregiver for one or more of his or her children, is not counted within the specified 10% cap.

This bill would prohibit a pupil who has not passed the California High School Exit Examination from being counted within the specified 10% cap.

The bill would make a school district ~~or~~, county office of education, *or charter school* eligible, on or after July 1, 2008, to receive apportionments for independent study by pupils, regardless of age, only if it has adopted written policies, and has implemented those policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction that include (a) a requirement that the school district ~~or~~, county office of education, *or charter school* use a diagnostic evaluation or assessment tool to evaluate the academic achievement of each pupil who applies for independent study, and evaluate the pupil's ability to work independently under the general supervision of a credentialed teacher or teachers, for the purpose of providing appropriate interventions and individualized assistance to enable each pupil to be successful in independent study; and (b) a requirement that all pupils who choose independent study be provided with the level of support and materials necessary for pupil

success. *The bill would require the Superintendent to adopt those rules and regulations by January 1, 2008.*

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 37252 of the Education Code is  
2 amended to read:

3 37252. (a) The governing board of each school district  
4 maintaining any or all of grades 7 to 12, inclusive, shall offer,  
5 and a charter school may offer, ~~direct, systematic, and intensive~~  
6 *including, but not limited to, direct, systematic, and intensive*  
7 *instruction*, supplemental instructional programs for pupils  
8 enrolled in grades 7 to 12, inclusive, who do not demonstrate  
9 sufficient progress toward passing the exit examination required  
10 for high school graduation pursuant to Chapter 8 (commencing  
11 with Section 60850) of Part 33.

12 (b) Sufficient progress, as described in subdivision (a), shall  
13 be determined on the basis of either of the following:

14 (1) The results of the assessments administered pursuant to  
15 Article 4 (commencing with Section 60640) of Chapter 5 of Part  
16 33 and the minimum levels of proficiency recommended by the  
17 state board pursuant to Section 60648.

18 (2) The pupils' grades and other indicators of academic  
19 achievement designated by the district.

20 (c) For purposes of this section, a pupil shall be considered to  
21 be enrolled in a grade immediately upon completion of the  
22 preceding grade. Supplemental instruction may also be offered to  
23 a pupil who was enrolled in grade 12 during the prior school  
24 year.

(d) For the purposes of this section, pupils who do not possess sufficient English language skills to be assessed, as set forth in Sections 60850 and 60853, shall be considered pupils who do not demonstrate sufficient progress toward passing the exit examination required for high school graduation and shall receive supplemental instruction designed to assist pupils to succeed on the high school exit examination.

(e) Except as provided in subdivision (h), programs may be offered pursuant to this section during the summer, including through a summer academic support or enrichment program, before school, after school, on Saturday, or during intersession, or in any combination of summer, before school, after school, Saturday, or intersession instruction, but shall be in addition to the regular schoolday. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday over a pupil who is not unable to attend a Saturday school program for religious reasons.

(f) A school district or charter school offering supplemental instructional programs pursuant to this section shall receive funding as described in Section 42239 and in the annual Budget Act.

(g) Notwithstanding any other provision of law, neither the state board nor the Superintendent may waive any provision of this section.

(h) Funds received for supplemental instruction pursuant to this section may also be used to provide intensive instruction and services to eligible pupils pursuant to Section 37254.

SEC. 2. Section 37252.8 of the Education Code is amended to read:

37252.8. (a) The governing board of a school district and a charter school maintaining any of grades 2 to 6, inclusive, may offer programs of direct, systematic, and intensive supplemental instruction to a pupil enrolled in any of grades 2 to 6, inclusive, who meets either of the following criteria:

(1) The pupil has been identified as having a deficiency in mathematics, reading, or written expression based on the results

1 of a test administered under the Standardized Testing and  
2 Reporting Program established pursuant to Article 4  
3 (commencing with Section 60640) of Chapter 5 of Part 33.

4 (2) The pupil has been identified as being at risk of retention  
5 pursuant to Section 48070.5.

6 (b) Supplemental educational services offered pursuant to this  
7 section may be offered during the summer, before school, after  
8 school, on Saturdays, or during intersession, or in a combination  
9 of summer school, before school, after school, Saturday, or  
10 intersession instruction. Services shall not be provided during the  
11 regular instructional day of the pupil. A minor pupil whose  
12 parent or guardian informs the school district that the pupil is  
13 unable to attend a Saturday school program for religious reasons,  
14 or a pupil 18 years of age or older who states that he or she is  
15 unable to attend a Saturday school program for religious reasons,  
16 shall be given priority for enrollment in supplemental instruction  
17 offered at a time other than Saturday, over a pupil who is not  
18 unable to attend a Saturday school program for religious reasons.

19 (c) For purposes of this section, a pupil shall be considered to  
20 be enrolled in a grade immediately upon completion of the  
21 preceding grade. Summer school instruction may also be offered  
22 to a pupil who was enrolled in grade 6 during the prior school  
23 year.

24 (d) An intensive remedial program in reading or written  
25 expression offered pursuant to this section shall, as needed,  
26 include instruction in phoneme awareness, systematic explicit  
27 phonics and decoding, word attack skills, spelling and  
28 vocabulary, explicit instruction of reading comprehension,  
29 writing, and study skills.

30 (e) A school district or charter school shall seek the active  
31 involvement of parents and classroom teachers in the  
32 development and implementation of supplemental instructional  
33 programs provided pursuant to this section.

34 (f) It is the intent of the Legislature that a pupil who is at risk  
35 of failing to meet state-adopted standards, or who is at risk of  
36 retention, be identified as early in the school year, and as early in  
37 his or her school career as possible and be provided the  
38 opportunity for supplemental instruction sufficient to assist him  
39 or her in attaining expected levels of academic achievement.

(g) (1) A school district or charter school that offers instruction pursuant to this section shall be entitled to receive reimbursement in an amount up to 10 percent of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (b) of Section 42239.

(2) The balance of the appropriation made for the purposes of funding programs offered pursuant to this section to serve pupils in grades 2 to 6, inclusive, shall be allocated for reimbursement of pupil attendance in instruction pursuant to subdivision (a) that is in excess of 10 percent, but not in excess of 15 percent, of the enrollment of the school district or charter school for the prior year in grades 2 to 6, inclusive, multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (b) of Section 42239.

(h) Notwithstanding any other provision of law, neither the state board nor the Superintendent may waive any provision of this section.

SEC. 3. Section 46145 of the Education Code is repealed.

SEC. 4. Section 46145 is added to the Education Code, to read:

46145. (a) The Legislature hereby finds and declares all of the following:

(1) It is the fundamental purpose of the educational system in California to equip all pupils with the knowledge and skills to succeed in postsecondary education and careers, and as parents and citizens.

(2) Pupils who do not graduate are six times more likely to live in poverty than those with a high school diploma. Pupils who graduate with a diploma from high school earn twice as much on average than those who drop out of high school. Individuals with some college or advanced training earn on average twice that of individuals with a high school diploma, and individuals with a bachelor's degree earn over three times that of individuals with a high school diploma, over the course of a lifetime.

(3) The costs to society, business, and the individual of failing to complete a high school education are many and varied. These costs include behavioral and human elements, economic consequences, such as reduction in personal income and loss in



1 state revenue, and increased public assistance and involvement in  
2 the penal system.

3 (4) Pupils who want to earn a high school diploma and who  
4 have not passed the California High School Exit Examination or  
5 completed all other graduation requirements by the end of grade  
6 12 must be provided options to continue to develop their  
7 academic and technical skills in an appropriate educational  
8 setting with a full range of appropriate educational support.

9 (5) Often, pupils, parents, educators, and policymakers have  
10 demonstrated concern over the lack of rigor and relevance of the  
11 senior year and the resulting time and opportunity that is lost.

12 (6) Assisting pupils to graduate from high school, and  
13 thoroughly preparing pupils for transition to, and success in,  
14 postsecondary education and careers is imperative to California's  
15 economic development and the quality of life for its residents.

16 (b) Pupils in grade 12 shall be enrolled in at least five courses  
17 each semester or the equivalent number of courses per quarter. If  
18 any pupil who is subject to this paragraph is required by a  
19 medical prescription to attend school for less than five courses  
20 during the semester or the equivalent number of courses during  
21 the quarter, the average daily attendance allowed for that pupil's  
22 attendance shall bear the same proportion to one day of  
23 attendance as the number of courses in which the pupil is  
24 enrolled bears to five or the equivalent number for the quarter  
25 system.

26 (c) Subdivision (b) does not apply to pupils enrolled in a  
27 regional occupational program, a regional occupational center, a  
28 course at an accredited postsecondary educational institution,  
29 independent study, a special education program where the pupil's  
30 individualized education program establishes a different number  
31 of courses, a continuation high school, a county community  
32 school, a county court school, or a registered apprenticeship  
33 program or apprenticeship preparation program, or any other  
34 course of study authorized by the governing board that is  
35 equivalent to the approved high school course of study.

36 SEC. 5. Section 46145.3 is added to the Education Code, to  
37 read:

38 46145.3. (a) A school district *or county office of education*  
39 shall not allow a pupil who has not passed the California High  
40 School Exit Examination to enroll in work experience education

1 programs approved under Article 7 (commencing with Section  
2 51760) of Chapter 5 of Part 28, or in office or teacher assistant  
3 courses.

4 (b) Except as authorized under subdivision (c) or (d), a school  
5 district *or county office of education* shall not allow a pupil who  
6 has not passed the high school exit examination to attend a  
7 minimum schoolday, as defined in Section 46141, unless the  
8 pupil is enrolled in a regional occupational program, a regional  
9 occupational center, a course at an accredited postsecondary  
10 educational institution, independent study, a special education  
11 program in which the individualized education program for the  
12 pupil establishes a different minimum schoolday, a continuation  
13 high school, a county community school, a county court school,  
14 or a registered apprenticeship program or apprenticeship  
15 preparation program, or any other course of study authorized by  
16 the governing board that is equivalent to the approved high  
17 school course of study.

18 (c) A school district *or county office of education* may  
19 authorize a pupil in grade 12 who is 18 years of age or older and  
20 has not passed the California High School Exit Examination to  
21 attend a minimum schoolday, as defined in Section 46141, if the  
22 pupil signs a statement indicating that he or she is fully informed  
23 of the potential consequences of attending school less than full  
24 time.

25 (d) A school district *or county office of education* may  
26 authorize a pupil in grade 12 who is less than 18 years of age and  
27 has not passed the California High School Exit Examination to  
28 attend a minimum schoolday, as defined in Section 46141, if the  
29 pupil and the pupil's parent or legal guardian both sign a  
30 statement indicating that they are fully informed of the potential  
31 consequences of attending school less than full time.

32 SEC. 6. Section 46145.5 is added to the Education Code, to  
33 read:

34 46145.5. (a) (1) A school district *or county office of*  
35 *education* shall require each high school within its jurisdiction  
36 that enrolls pupils in any of grades 10 or 12 to develop a written  
37 individualized learning plan to assist each pupil in grade 10 or 12  
38 who has not passed the high school exit examination. The plan  
39 shall include the requisite coursework and experience the pupil  
40 needs in order to pass the examination, complete all other

1 requirements for graduation from high school, and successfully  
2 transition to postsecondary education or employment.

3 (2) A school district *or county office of education* shall require  
4 each school within its jurisdiction that enrolls pupils in grade 7 to  
5 develop a written individualized learning plan to assist each pupil  
6 in grade 7 who is deemed at the far below basic level in English  
7 language arts or mathematics pursuant to the California  
8 Standards Tests administered to pupils in grade 6. The plan shall  
9 include the requisite coursework and experience the pupil needs  
10 in order to pass the high school exit examination, complete all  
11 other requirements for graduation from high school, and  
12 successfully transition to postsecondary education or  
13 employment.

14 (b) A school district *or county office of education* shall require  
15 each school within its jurisdiction to offer and schedule an  
16 individual conference with each pupil, his or her parent or legal  
17 guardian, and a school representative, as required under this  
18 section.

19 (1) The school representative shall review the pupil's status in  
20 passing the examination, or the pupil's score on the English  
21 language arts or mathematics portion of the California Standards  
22 Test administered in grade 6, as applicable. The parent or legal  
23 guardian and the pupil shall be apprised of the consequences of  
24 not passing the examination and of the programs, courses, and  
25 options available for pupils who have not passed the  
26 examination, or are at risk of not passing the examination.

27 (2) The school representative shall review the pupil's  
28 cumulative records, transcript, progress towards completing the  
29 graduation requirements, performance on standardized and  
30 diagnostic assessments, related remediation strategies, available  
31 high school courses, alternative education options, and  
32 information on postsecondary education and training.

33 (3) The school representative and the pupil shall develop a  
34 written individualized learning plan to assist the pupil in reaching  
35 his or her educational and career goals. The plan shall include the  
36 courses and experiences necessary to pass the California High  
37 School Exit Examination, complete high school, and transition to  
38 postsecondary education or employment. A copy of the plan shall  
39 be given to the parent or legal guardian and the pupil.

1 SEC. 7. Section 48200.3 is added to the Education Code, to  
2 read:

3 48200.3. (a) The school district *or county office of education*  
4 shall allow a pupil who is 18 years of age or older and enrolled in  
5 grade 12 to complete that school year in a high school program,  
6 as determined by governing board policy.

7 (b) The school district *or county office of education* shall allow  
8 a pupil who has not completed all high school graduation  
9 requirements or passed both sections of the California High  
10 School Exit Examination on or before the end of the fourth year  
11 of high school to enroll in and attend a high school program  
12 during the next school year, as determined by governing board  
13 policy, if the pupil enrolls in the fifth year of high school upon or  
14 before attaining 19 years of age.

15 (c) The school district *or county office of education* shall  
16 provide the pupil with educational options ~~that provide intensive~~  
17 ~~instruction~~, pursuant to an individualized learning plan for each  
18 pupil, for enrollment of pupils beyond the fourth year of high  
19 school, if the pupil is making progress under governing board  
20 policy towards completion of graduation requirements. These  
21 options shall include, but are not limited to, all of the following:

- 22 (1) Comprehensive high school.
- 23 (2) Continuation high school.
- 24 (3) Independent study.
- 25 (4) Charter school.
- 26 (5) Community day school.
- 27 (6) Opportunity school.
- 28 (7) County court school.
- 29 (8) County community school.
- 30 (9) Adult school.
- 31 (10) Other alternative school.

32 (d) A pupil who is subject to this section is not subject to  
33 paragraph (2) of subdivision (b) of Section 46145.

34 SEC. 8. Section 51745 of the Education Code is amended to  
35 read:

36 51745. (a) Commencing with the 1990–91 school year, the  
37 governing board of a school district or a county office of  
38 education may offer independent study to meet the educational  
39 needs of pupils in accordance with the requirements of this

1 article. Educational opportunities offered through independent  
2 study may include, but shall not be limited to, the following:

3 (1) Special assignments extending the content of regular  
4 courses of instruction.

5 (2) Individualized study in a particular area of interest or in a  
6 subject not currently available in the regular school curriculum.

7 (3) Individualized alternative education designed to teach the  
8 knowledge and skills of the core curriculum. Independent study  
9 shall not be provided as an alternative curriculum.

10 (4) Continuing and special study during travel.

11 (5) Volunteer community service activities that support and  
12 strengthen pupil achievement.

13 (b) Not more than 10 percent of the pupils participating in an  
14 opportunity school or program, or a continuation high school,  
15 calculated as specified by the department, shall be eligible for  
16 apportionment credit for independent study pursuant to this  
17 article. A pupil who is pregnant, or a pupil who is a parent and is  
18 the primary caregiver for one or more of his or her children, shall  
19 not be counted within the 10 percent cap. A pupil who has not  
20 passed the California High School Exit Examination shall not be  
21 counted within the 10 percent cap.

22 (c) No individual with exceptional needs, as defined in Section  
23 56026, may participate in independent study, unless his or her  
24 individualized education program developed pursuant to Article  
25 3 (commencing with Section 56340) of Chapter 4 of Part 30  
26 specifically provides for that participation.

27 (d) No temporarily disabled pupil may receive individual  
28 instruction pursuant to Section 48206.3 through independent  
29 study.

30 (e) No course included among the courses required for high  
31 school graduation under Section 51225.3 shall be offered  
32 exclusively through independent study.

33 SEC. 9. Section 51747.2 is added to the Education Code, to  
34 read:

35 51747.2. On or after July 1, 2008, a school district ~~or~~, county  
36 office of education, *or charter school* is eligible to receive  
37 apportionments for independent study by pupils, regardless of  
38 age, only if it has adopted written policies, and has implemented  
39 those policies, pursuant to rules and regulations adopted by the

1 Superintendent *by January 1, 2008*, that include, but are not  
2 limited to, all of the following:

3 (a) For each pupil who applies for independent study, a school  
4 district~~or~~, county office of education, *or charter school* shall use  
5 a diagnostic evaluation or assessment tool to evaluate the pupil's  
6 academic achievement, and shall evaluate the pupil's ability to  
7 work independently under the general supervision of a  
8 credentialed teacher or teachers. Based on this evaluation the  
9 school district or county office of education shall provide  
10 appropriate interventions and individualized assistance to enable  
11 each pupil to be successful in independent study. As a result of  
12 the diagnostic evaluation or assessment, pupils performing below  
13 grade level shall be provided with additional instructional  
14 opportunities, including direct instruction of the pupil by a  
15 credentialed teacher or teachers on at least a weekly basis.

16 (b) All pupils who choose independent study shall be provided  
17 with the level of support and materials necessary for pupil  
18 success, *as determined by a school district, county office of*  
19 *education, or charter school*, including, but not limited to, a  
20 learning program aligned to state academic content standards and  
21 suitable to the individual pupil's needs.

22 (c) The requirements of this section do not apply to  
23 classroom-based pupils who must be absent from the classroom  
24 on a temporary basis and who utilize independent study for those  
25 periods of absence.

26 SEC. 10. If the Commission on State Mandates determines  
27 that this act contains costs mandated by the state, reimbursement  
28 to local agencies and school districts for those costs shall be  
29 made pursuant to Part 7 (commencing with Section 17500) of  
30 Division 4 of Title 2 of the Government Code.